To: The Advisory Committee on Investment Responsibility (ACIR)
From: Duke Climate Coalition
Date: March 17th, 2018
Re: Fossil Fuel Divestment by the Duke University Endowment: A Response to the ACIR Report and Recommendations

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I. Introduction

In a November 2014 report, ACIR discouraged the Duke endowment from fossil fuel divestment. The report cited the following concerns:

- That there has not been sufficient discourse on the topic.
- That there is a lack of clarity that divestment will have the desired impact.
- That divestment, while certainly symbolic in that it communicates where Duke stands on this topic, is a single occurrence whereas we believe other actions referenced in the reports reflect the benefits of multiple acts and communications that are more consistent with the missions of a great university.
- That the Trustee Guidelines to ACIR indicate that before divestment a company is to be "afforded reasonable opportunity to alter its activities."[1]

These concerns are overstated. Duke University's core investment principles and institutional mission are both consistent with divestment. Duke should reopen university-wide dialogue on the issue of fossil fuel divestment and ACIR again consider divesting the Duke University endowment from the foremost 200 publicly traded fossil fuel companies.[2]

II. More institutions are divesting and this creates a collective impact

The 350 Campaign estimates that today $6.01 trillion in fossil fuel holdings have been divested worldwide by universities, foundations, cities, pension funds, churches, and other institutions, representing a $1 trillion increase since December 2016.[3] [4] This growth in the

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[1] Cox, James D. *Re: ACIR Report and Recommendations on Fossil Fuels*. 2014.
[2] "Carbon Underground 200 Companies." *Fossil Free Indexes.* 26 Feb. 2018 http://fossilfreeindexes.com/divestinvest/
[3] "Divestment Commitments: Classifications." *Fossil Free*. 21 Feb. 2018. https://gofossilfree.org/divestment-commitments-classifications/

divestment campaign has been accompanied by significant contributions from a number of Duke University's peer institutions. In April 2016, Yale University announced partial divestment from fossil fuels, targeting businesses engaged in thermal coal and oil sands production.[5] Last year, the Public Interest Investment Advisory Committee at Johns Hopkins University recommended that the institution divest from the 200 top coal, oil, and gas companies.[6] Stanford, Columbia, Georgetown, Syracuse, and over one hundred other universities have also pledged partial or full divestment.[7]

The most recent notable divestment came in January 2018, when New York City announced that they would divest $5 billion in city pension funds from fossil fuel companies within five years.[8] This divestment is comparable in magnitude to that of the entire Duke University endowment. In November 2015, the large German financial services provider Allianz SE announced divestment from any company whose activities included >30% coal electricity production or coal extraction. Allianz SE manages over $1.9 trillion USD in assets, with the total amount divested from thermal coal worth $4.1 billion USD, an amount again comparable to the size of Duke University's endowment.[9]

These selected examples are merely a few instances of significant commitments to divest within the last four years. The fossil fuels divestment movement is continuing to grow globally in scope and scale. As the number of institutions committed to divestment rises along with the quantity of divested funds, the reach and political impact of the movement will broaden. With collective action, divestment has the chance to create a concrete impact on the fossil fuel industry. While ACIR noted that moral and symbolic considerations alone can motivate a recommendation of divestment, the collective nature of this divestment campaign also provides material clout (as evidenced by previous successful divestment campaigns such as those which helped end apartheid in South Africa and reduce tobacco use in America).[10]

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[4] Carrington, Damian. "Fossil fuel divestment funds double to $5tn in a year." *The Guardian.* Web. 21 Feb. 2018.

[5] Schick, Finnegan. "Yale to partially divest from fossil fuels" *Yale Daily News*. Web. 21 Feb. 2018.

[6] "Johns Hopkins committee weighs in on proposal to divest from fossil fuels." *Johns Hopkins University Hub Staff Report.* 21 Feb. 2018.

[7] "Full List of Divestment Commitments." *Fossil Free*. 26 Feb. 2018 https://gofossilfree.org/divestment/commitments/

[8] Milman, Oliver. "New York City plans to divest $5bn from fossil fuels and sue oil companies." *The Guardian.* Web. 21 Feb. 2018.

[9] "Climate protection will become part of core business." *Allianz*. 21 Feb. 2018.

[10] Ansar, Atif, Ben Caldecott and James Tilbury. "Stranded assets and the fossil fuel divestment campaign: what does divestment mean for the valuation of fossil fuel assets?" *University of Oxford.* 27 Feb 2018. http://www.smithschool.ox.ac.uk/research/stranded-assets/SAP-divestment-report-final.pdf

III. Fossil fuel companies are not interested in discourse

In light of substantial progress by the worldwide divestment movement, continuing resistance of the fossil fuel industry to environmental reform, and the exacerbating threat of climate change, promoting action via fossil fuel shareholder advocacy is unlikely to yield meaningful adoption of sustainable practices.

A concern of ACIR raised in their November 2014 report was that divestment actions might carry the "negative unintended consequence of polarizing discussion of how best or better to respond to fossil fuels' contributions to global warming and thereby weaken the possibility for constructively address the problem and developing solutions." This idea is unfounded. The polarization of climate change and environmental reform in the American political sphere is the result of national factors beyond the influence of Duke University, and divestment action by Duke is unlikely to further entrench debate.

While we share ACIR's concern regarding polarization, we do not believe that divestment will impact dialogue. By seeking to influence national and global discussion on climate change, the fossil fuel industry has already taken a firm stance opposing climate change mitigation. Consider the scandal of Dr. Wei-Hock Soon, a climate skeptic who received over $1.2 million USD in research funding by Exxon-Mobil, the American Petroleum Institute, and the Koch Foundation.[11] Likewise, the coal company Peabody energy "funded at least two dozen groups that cast doubt on man-made climate change and oppose environmental regulations."[12] Many similar examples can be found in publications by the Union of Concerned Scientists which detail how the American Petroleum Institute, Western States Petroleum Association, Exxon-Mobil, coal companies, and other interest groups have organized efforts to exert control over the discussion of climate science.[13] The same documents show that for decades fossil fuel companies have internally acknowledged the strength of the scientific evidence supporting climate change. To quote a document produced by a team which the American Petroleum Institute assembled, victory would be "achieved" when "average citizens 'understand' (recognize) uncertainties in climate science; recognition of uncertainties becomes part of the 'conventional wisdom'".[14]

Such structured efforts to influence policymakers and the American public on climate issues transcend norms of interest-based lobbying and political discourse. In reference to ACIR's

[11] Gillis, Justin and John Schwartz. "Deeper Ties to Corporate Cash for Doubtful Climate Researcher." *The New York Times.* Web. 21 Feb. 2018.
[12] Goldenberg, Susanne and Helena Bengtsson. "Biggest US coal company funded dozens of groups questioning climate change." *The Guardian*. Web. 23 Feb. 2018
[13] "The Climate Deception Dossiers." *Union of Concerned Scientists*. 21 Feb. 2018.
[14] "Climate Deception Dossiers"

concerns as expressed in its 2014 report, these activities may themselves run counter to the principles of intellectual discourse upon which Duke is founded. Further, such actions suggest that fossil fuel corporations are unlikely to debate climate policy in good faith, and that any efforts by Duke University to promote positive change via shareholder advocacy will likely fail to produce meaningful results.

While divestment by Duke University may not help heal the polarization surrounding climate change issues in the United States, we hold that divestiture is also unlikely to deepen the divide. We also disagree with ACIR's position that divestment constitutes a single, one-time act that prevents future constructive interactions with fossil fuel companies. Divestment, once undertaken, represents an ongoing commitment to avoid financial entanglement with energy industries that threaten the social good. The offer to re-invest, furthermore, may be employed as an incentive to encourage positive change within the fossil fuel industry.

Most importantly, Duke University's continued investments in the fossil fuels sector may indirectly support the fossil industry's questionable lobbying practices. Divestment from fossil fuels by Duke University would not only deliver a strong moral rebuke against industry-funded climate skepticism, but would also ensure that the university does not inadvertently aid industry-led advocacy efforts.

IV. Impactful emission reductions are irreconcilable with the business models of key fossil fuel companies

Less than one-fifth of the carbon stored within known fossil fuel deposits worldwide can be burned without seriously jeopardizing the stability of the earth's climate system[15]. Though fossil fuel companies invest modest amounts in carbon sequestration and clean energy research, such activities constitute an insignificant fraction of their capital investment and operations. Instead, the extraction, refinement, and burning of fossil fuels remains the fundamental revenue source of the coal, oil, and natural gas industries.

Consider Exxon-Mobil, the largest US-based oil and natural gas company. Exxon explored oil in 39 countries in 2016, spending \$244 billion on investments in "Property, Plant, and Equipment", \$73 billion in operating costs, and \$19.3 billion in capital and oil exploration. Yet, the company is estimated to invest a mere \$1 billion this year on renewable energy technologies.[16] [17] Similarly, Royal Dutch Shell recently completed several acquisitions in the

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[15] "IPCC, Climate Change 2014: Mitigation of Climate Change. Contribution of Working Group III to the Fifth Assessment Report of the Intergovernmental Panel on Climate Change." Cambridge, United Kingdom and New York, NY, USA.

[16] "ExxonMobil 2016 Financial & Operating Review" *ExxonMobil*. Web. 21 Feb. 2018.

renewables sector totalling $400 million, including investments in electric vehicle charging technology and solar electricity production. Contrasted with Shell's annual spending budget of $25 billion, however, such expenditures represent a minute fraction of the corporation's activities. And Chevron "estimated its worldwide environmental spending in 2016 at approximately $2.1 billion for its consolidated companies," while spending over $116 billion in total costs.[18]

Adoption of a truly climate-friendly business model by major fossil fuel producers would require either a total transition to clean energy production or a substantial commitment to carbon sequestration. The latter option produces no revenue in the absence of large carbon incentive programs. The former outcome would require radical shifts in business practices: transformative reinvestment of labor and capital, re-evaluation and shuffling of assets, complete rebuilding of the supply chain, and countless other structural changes.

It is unclear whether many of fossil fuel companies even possess the capital to consider such sweeping reforms. Financially-struggling fossil energy companies have cost the American people billions of dollars over the past several years. In 2016, three of the top four largest coal companies in the United States filed for bankruptcy: Peabody Energy, Alpha Natural Resources, and Arch Coal.[19] In response, the U.S. chose to bail these companies out of their poor financial circumstances. Arch Coal, for example, was cleared of $5 billion in debt[20] and agreed to pay a maximum of just $75m to cover reclamation liabilities of more than $450 million.[21]

Provided such challenging financial realities and the under-prioritization of environmental initiatives, we find it unlikely that the fossil fuel sector will adopt climate-friendly business models in response to shareholder activism and engagement. The previous Divest Duke memorandum, dated October 2014, drew attention to the low pass rate and minimal impact of shareholder resolutions targeting methane emissions and political lobbying. We remain doubtful that shareholder advocacy will produce more than a negligible reduction in the climate forcing represented by the oil, natural gas, and coal interests in which Duke possesses a substantial shareholder voice.

Fossil fuel corporations require an economic incentive to mitigate their climate impact. The passage of legislation regulating and pricing carbon emissions consequently represents the

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[17] Hirtenstein, Anna. "Exxon Quietly Researching Hundreds of Green Projects." *Bloomberg*. Web. 21 Feb. 2018.
[18] "Chevron 2016 Annual Report" *Chevron*. 23 Feb. 2018.
[19] Varinsky, Dana. "Nearly half of US coal is produced by companies that have declared bankruptcy — and Trump won't fix that." *Business Insider*. Web. 23 Feb. 2018.
[20] Chaney, Sarah "Arch Coal Emerges from Chapter 11." *Wall Street Journal*. Web. 23 Feb. 2018.
[21] "Wyoming, Arch Coal reach bankruptcy bonding deal." *The Denver Post.* Web. 23 Feb. 2018.

best hope of creating the environment necessary to drive such change. By divesting, Duke University would materially reduce the ability of fossil fuel companies to influence the democratic process as detailed in Section III, while placing national attention on the climate crisis. Within our representative democracy, such consistent public focus and pressure on climate issues will be necessary to promote meaningful adoption of carbon taxation or trading-based policies.

V. Decarbonization and political trends will likely reduce the economic benefits of investing in the fossil fuel industry

Energy use in the United States has shown an overall trend towards decarbonization. Recently, natural gas has surpassed coal as the primary energy source for electricity generation.[22] With demand for coal falling due to competition from more cost effective energy sources, coal companies such as Peabody Energy, Murray Energy, and Cloud Peak Energy represent poor investments from a financial as well as a societal and environmental standpoint. Although the pace of decarbonization has accelerated, the need for fossil fuel divestment persists, as the speed of this energy transition is insufficient to substantially mitigate the detrimental impacts of climate change.

The current political climate also suggests that American society is determined to transition towards cleaner fuel sources. President Trump's election represented a major victory for fossil fuel companies, producing a U.S. withdrawal from the Paris Climate Accords.[23] Yet, following this announcement, dozens of states and cities promised to keep the Paris climate commitments on their own.[24] These actors have a significant hand in shaping energy choices within the United States, and their commitment to keeping the climate accord is indicative of America's trend toward decarbonization even absent leadership at the federal level.

Fossil fuel extraction itself is also subject to resource depletion and rising costs. The shift toward fracking by energy companies is representative of a broader adoption of new extraction techniques in response to progressive exhaustion of conventional proven fossil deposits.[25] The cost of such techniques is high relative to the cost of renewable energy alternatives. The more expensive oils from fracking, for instance, cost up to $90 a barrel to produce. At a selling price

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[22] "What is U.S. electricity generation by energy source?". *U.S. Energy Information Administration*.18 April. 2017.
[23] Shear, Michael D. "Trump Will Withdraw U.S. From Paris Climate Agreement". *The New York Times*. 1 June. 2017.
[24] Halper, Evan. "A California-led alliance of cities and states vows to keep the Paris climate accord intact". *Los Angeles Times*. 2 June. 2017.
[25] Miller, Richard G. "The future of oil supply". *The Royal Society*. 1 January. 2014.

of $60 a barrel, these fuels are not competitive with many renewable energy systems.[26] As renewables increase in efficiency and decrease in cost, while societal and regulatory pressures continue to be leveled upon fossil fuels, such trends towards decarbonization will continue and many top fossil fuel companies will become unprofitable investments.

VI. Recommendations

In proper consideration of divestment, we recommend that:

1. ACIR and DUMAC regularly report to the university community about past and ongoing efforts to engage fossil fuel corporations via shareholder advocacy and the status and outcome of such initiatives.

2. The university follow these preliminary steps to generate constructive and in-depth dialogue on the symbolic and practical impact of divestment:
    a. The issue of divestment be brought before the Duke Student Government, the Duke Graduate and Professional Student Council, and the Academic Council for discussion.
    b. ACIR hold multiple large forums open to the entire university community to collect diverse student, faculty, and staff perspectives on divestment, thoroughly marketing these forums across campus well in advance of their occurence.

3. The university once again consider the strategy of divestment as outlined in Section 3.1 of the memorandum to ACIR dated October 2014, with particular consideration to the partial divestment strategies described in Section 4.
    a. We note that the university might make a statement prior to divestment, requesting binding commitments from the affected companies to phase out carbon-intensive activities and to cease efforts to promote climate denial, thus affording companies a final opportunity to alter their activities. Such an announcement would also increase public attention on climate change issues and the divestment movement.
    b. We note that the exploitation of oil sands has attracted particular condemnation in recent years for its elevated carbon intensity and for the industry's entanglement in issues of social and environmental justice. We therefore urge that oil sands production also be targeted in any partial divestment strategy focused on coal.

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[26] Beattie, Andrew. The Cost of Shale Oil Versus Conventional Oil. *Investopedia*. 9 January 2018.

With respect to the November 2014 ACIR report, we:

- Recognize the value of further discussion on divestment across the broader university community, and have proposed steps to promote such discourse.

- Commend that ACIR has acknowledged the worrying impact of continued carbon and greenhouse gas emissions upon both society and the earth system.

- Express our profound skepticism that engagement with fossil fuel companies and the leveraging of shareholder influence will produce meaningful changes in business practices. Any “reasonable opportunity” for the oil, natural gas, and coal companies to cooperate on proposing and implementing solutions for the mitigation of climate change has long passed.

- Find that support for industries spreading misinformation and contributing to the global threat of climate change is irreconcilable with the mission of Duke University. By divesting, Duke University would reaffirm its commitment to promoting intellectual and societal growth while demonstrating support for a sustainable future.